

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 18-10131-RWZ

MARK R. THOMPSON and BETH A. THOMPSON

v.

J.P. MORGAN CHASE BANK, N.A.

ORDER

MAY 11, 2018

ZOBEL, S.D.J.

Plaintiffs seek to void the foreclosure sale of their Massachusetts home, alleging that defendant failed strictly to comply with the notice requirements for default and acceleration set forth in paragraphs 22 and 19 of the mortgage agreement. Specifically, they claim that paragraph 19 required defendant to notify them that their post-acceleration reinstatement rights would expire five days prior to foreclosure, and that the notice merely informing plaintiffs that they could avoid foreclosure by making payment “before a foreclosure sale takes place” was thus defective.

Defendant moves to dismiss. In support, it has produced a Default and Acceleration Notice strictly complies with paragraph 22 and advises plaintiffs of their post-acceleration reinstatement rights, together with plaintiff’s receipt thereof. Because no more is required, the motion to dismiss (Docket # 8) is allowed. See Pinti v. Emigrant Mortg. Co., Inc., 33 N.E.3d 1213, 1221, 1226 (Mass. 2015) (holding that strict compliance with paragraph 22 notice of default language is condition of valid

foreclosure sale, and voiding foreclosure in which plaintiffs given notice of right to defend, rather than to initiate, legal action; but without discussion of paragraph 19, noting that valid foreclosure does not require a mortgagee to demonstrate “punctilious performance of every single mortgage term,” and explicitly distinguishing between notice requirements for foreclosure versus acceleration); see also U.S. Bank, N.A. v. Schumacher, 5 N.E.3d 882, 890 (Mass. 2014) (statutory right to cure default before acceleration not part of foreclosure process itself and thus does not require strict compliance).

Judgment may be entered dismissing the complaint with prejudice.

May 11, 2018

/s/Rya W. Zobel

DATE

RYA W. ZOBEL
SENIOR UNITED STATES DISTRICT JUDGE